

REMARKS

At the outset the courtesies of Examiner Hwu in conducting the interview of June 28, 2006 is gratefully acknowledged.

From the interview it appeared that claim 17 as set forth above would be more appropriate for the Examiner to consider prior to a pre-appeal request. Accordingly the claim as set forth above puts in the structure of the sidewalls of the straw of having a minimum of 0.02 inches and with the hollow of the straw being substantially open. The substantially open limitation is set forth to distinguish this from the reference to Benefiel, et al.

Additionally, and as discussed at the interview, the beverage is positively recited as a physical part of the structure. To emphasize that a sample, showing the product as sold with the beverage therein, was presented at the interview.

It is submitted that the reference of Benefiel, et al. does not disclose a beverage selected from the group consisting of jelly drinks, granatas, slushes and precursors thereof. Additionally, Benefiel, et al. does not have a straw which is substantially open from end-to-end as is currently claimed in claim 17.

Claims 1-16 which had not been previously cancelled are cancelled by the above amendments to simplify the issues.

The topic of a precursor came up at the interview and it is stated for the purpose of the record that a precursor would be the un-frozen or gelled liquid that would result in a jellied drink, a granata or a slush.

Again, the courtesy of Examiner Hwu is acknowledged. It is felt that the above amendments and remarks should put the application in condition for allowance at this time. Should that not occur, Applicant will renew the request for a Pre-Appeal Conference.

Respectfully submitted,



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by: 